

ORDINANCE NO. 2270

AN ORDINANCE AMENDING CHAPTER 14 OF THE CODE OF THE CITY OF GARDNER BY ADDING SECTION 14-201.5 TO RESTRICT THE USE OF COMPRESSION RELEASE ENGINE BRAKES

Be it Ordained by the Governing Body of the City of Gardner, Kansas;

**Section One:** That Article 2, Section 14-201.6 be added and to read as follows:

14-201.5      Section 175.1      Compression Release Engine Braking System.

(a) It shall be unlawful for the driver of any motor vehicle to use or cause to be used or operated any compression release engine braking system; provided, however, that such brakes may be used in an emergency situation where the use of an engine braking mechanical exhaust device is necessary for the protection of persons or property. (K.S.A. Supp-8-1761)

(b) Upon conviction of a first offense of this section, the defendant shall be mandated to appear in court and shall be fined not less than \$250.00 or nor more than \$1,000. Upon conviction of a second offense of this section, within a twenty-four (24) month period, the defendant shall be mandated to appear in court and shall be fined not less than \$350.00 or nor more than \$1,000. Upon conviction of a third offense of this section, within a twenty-four (24) month period, the defendant shall be mandated to appear in court and shall be fined not less than \$500.00 or nor more than \$1,000. No portion of any minimum fine assessed pursuant to this section shall be suspended nor shall the defendant be placed on parole from any portion of the penalty assessed.

(c) Definition: Compression Release Engine Braking System. A hydraulically operated device that converts a power producing diesel engine into a power absorbing retarding mechanism.

**Section Two:** All other ordinances of said City in conflict herewith are hereby amended to conform to the provisions of this Ordinance.

**Section Three:** This Ordinance shall take effect and be in force from and after passage and publication as provided by law.

PASSED and APPROVED this 5<sup>th</sup> day of May, 2008.

/s/ Carol Lehman

Carol Lehman, Mayor

ATTEST:

/s/ Teresa Anderson

Teresa Anderson, City Clerk

(SEAL)